

**SUMMARY OF LAWS RELATING TO
HOUSING AND URBAN DEVELOPMENT
IN THE RUSSIAN FEDERATION**

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ABSTRACT

The body of law relating to housing and urban development in the Russian Federation is in a state of flux as legislators enact laws to reflect the country's changing political and economic goals. During this dynamic period, there is much uncertainty in the law. While the basic framework exists, there are many internal contradictions and incomplete areas.

This "Summary of Laws" identifies the fundamental Russian laws and implementing regulations related to housing and urban development. A description of each law defines the date of enactment and contents of the law. Laws that are currently under development are noted as such. Laws that are appearing in this report for the first time since the last bi-annual report (September 1995) are also noted. The reader should note that this "Summary of Laws" is the sixth in a series of semi-annual summaries (beginning in March 1993) that are produced by the Urban Institute under the United States Agency for International Development Housing Sector Reform Project.

SUMMARY OF LAWS RELATING TO HOUSING AND URBAN DEVELOPMENT IN THE RUSSIAN FEDERATION

RUSSIAN FEDERAL LAW

The following is an outline of the basic laws of the Russian Federation, existing and in development, which are relevant to the housing and urban development issues addressed in the Urban Institute's technical assistance mission to Russia and the City of Moscow.

I. COMMERCIAL LAW, GENERALLY

(a) Passed into law since last report (September 1995)

(1) *Law On Joint Stock Companies, December 26, 1995*

This long-awaited law passed in the State Duma in November 1995 and was signed into law by President Yeltsin in December 1995. This is a fundamental commercial law which builds on principles established in the Civil Code regarding the creation of joint stock companies, liability and taxation issues, the rights and responsibilities of shareholders, and liquidation.

(2) *Code of Civil Procedure of the RSFSR, June 11, 1964, as amended*

The Code of Civil Procedure addresses the procedural issues of enforcement of secured claims. The 1964 was substantially amended in 1988, 1992 and the beginning of 1996. The 1996 amendments in particular mark a substantial departure from the original 1964 whose anachronistic provisions were entirely unsuitable to the current reforming judicial system in Russia. The 1996 amendments discard many of the socialist principles of the Code, which emphasized the court's role in protecting parties' rights, in favor of an emphasis on a truly adversarial system with each party responsible for protecting their own interests. The amended Code contains a "loser-must-pay" scheme, requiring losing parties pay the winner's reasonable attorneys fees. The Code also contains expedited procedures for certain kinds of monetary disputes, such as wages and amounts due under a written contract.

The Code of Civil Procedure governs the civil courts' activities, tribunals which primarily deal with cases where one of the parties is an individual. Disputes between legal entities generally are heard in the state arbitration tribunals. Proceedings in these tribunals are governed by the Arbitration Procedural Code of the Russian Federation.

(3) *Revised Civil Code (Parts II and III)*

Part I of the Civil Code was enacted November 30, 1994 (see *infra* I(b)(2)). The remainder of a revision of the RSFSR Civil Code has been divided into two parts. The division is largely for political reasons. Part II deals with various contract and commercial matters, including leasing, franchising and barter/exchange, marriage and family law, purchase and sales, leasing, banking, agency, trust, and insurance. Part II was approved by the Duma on the first reading in fall 1995, and on the second and third readings in December. There was some pressure to complete these readings before the new Duma took office in early 1996. President Yeltsin signed Part II in early February and law goes into force March 1, 1996. Part III, dealing with matters involving intellectual



property, inheritance, and international private law, is currently in the drafting stages and the drafters hope to put it to a Duma vote in late spring.

(b) Passed/Issued

- (1) *Russian Federation Civil Code Part I, enacted by the Russian Federation Law On Introduction into Force of the Russian Federation Civil Code Part I, November 30, 1994*

Part I of the Civil Code passed in the State Duma on October 21, 1994. The Federation Council overran its constitutionally designated period to vote on the law, and the Russian Federation President signed the bill into law without the explicit approval of that house of the legislature.

Part I contains the General Part of the entire Civil Code, including definitions of legal entities and “immovable and movable property” (art. 130). Section 1 of the Code confirms the federal requirements of registration, in a unified state registry under the institutions of justice (art. 131), and notarization (arts. 163-65), of real estate transactions. Section 2 of this law lays out property rights, including property rights in land. Chapter 17 on land rights will not however go into effect until a land code is passed. Civil Code Part I, Section 3 contains important provisions for Russian finance law, outlining the fundamental law of pledge, guaranty and other modes of assuring repayment of debt. Transfer of rights and responsibilities under a contract are also covered in Section 3.

- (2) *The Russian Federation Fundamental Legislation On the Notary System, February 11, 1993*

The law on notaries sets out the role and qualifications required for public and private notaries. Notaries must have degrees in law. They play a role in property law in that they certify transactions, issue proof of the ownership rights of spouses to their common property, attach and lift prohibitions on the alienation of property, hold money or securities in “deposit” to secure repayment of a debt, confirm evidence in court and administrative procedures, and help in negotiating promissory notes.

- (3) *RSFSR Act No. 2005-1 State Duty Act, December 9, 1991, as amended*

This law establishes the fees which may be charged for notarization of contracts, wills and gifts. The Civil Code requires that documents transferring property rights be notarized by a public or private notary. The fees that notaries may charge are established legislatively and are generally a percentage of the value or purchase price of the property transferred, or a fixed fee based on a co-efficient times the monthly minimum wage.



II. MORTGAGE LAW AND HOUSING FINANCE

(a) In Development

(1) *Presidential Decree on Downpayment Subsidies*

This draft decree provides that certain citizens "in need of improved housing conditions" are entitled to receive a non means-tested subsidy for purchase of existing housing or construction of new housing. The subsidy may be used for new construction financed through a shared participation arrangement or self construction, although certain limitations on the subsidy's use apply in these circumstances. Funds will be administered through existing banks where subsidy holders will establish targeted accounts for receipt and disbursement of the subsidy amounts. Within three months of the decree's enactment the Ministries of Finance and Construction are responsible for issuing procedures for regulation of the subsidy program.

(2) *Draft Russian Federation Law on Mortgage*

A consensus Government and State Duma draft on real estate mortgage passed in the first reading in the Duma, July 1995, but was rejected on the second reading in October, 1995.

According to the Civil Code Part I (art. 334(2)), this mortgage law will govern pledges of land parcels, enterprises, buildings, other improvements, apartments and other immovable property. The general rules on pledge contained in the Civil Code will govern where there are not specific rules in the law on mortgage or the Civil Code.

(3) *Draft Russian Federation Law On a Russian Federal Agency for Mortgage Lending*

This law is being drafted by experts at the Urban Institute at the request of the State Duma's Committee on Property and Privatization, following preparation of a paper by the Urban Institute, in conjunction with a Working Group for creation of the agency, proposing various alternatives to creating this Russian "Fannie Mae."

(4) *Draft RF Government Decree On Issuing Special Debt Instruments on the Federal Debt Owed to Particular Enterprises and Use of these Instruments as the Means for Paying for Land Purchase*

This draft law was prepared to fulfill the President's requested task by the RF Ministry of Finance. Although originally slated to be approved by the Duma in 1996, introduction of the law has been postponed pending passage of the 1997 budget.

The draft provides for the issuing of SDOs (Special Debt Obligations). The issuer of the SDOs will be the RF Ministry of Finance. The SDO will be a government-backed security. They will be nonnegotiable and not transferable in any form. No income is paid on an SDO. The holder of an SDO may be an exclusively privatized or privatizing company which is owed money by the federal budget. The SDO may be used to buy land from the federal or a local property fund in accordance with current legislation at the normative price set by presidential decree.



(b) Passed/Issued

- (1) *Russian Federation Government Securities and Exchanges Commission (SEC) Decree No. 2 confirming Instructions On the Procedure for Issue, Circulation and Redemption of Housing Certificates, May 12, 1995*

This decree concerns the housing certificate market. It defines a six step procedure for issuing housing certificates, including the requirement of filing a prospectus with a registering agency which reserves the right to terminate or stop the issue for violation of issue procedure. An "issuer" may be any Russian legal entity with the right to build housing and the right to a land plot allocated for a building or a legal entity to whom these rights are assigned. A "professional mediator" may sell the certificates. A "housing certificate" is defined as a means to finance housing construction and purchase. The procedure would be as follows: (1) an issuer makes a decision to issue housing certificates; it then has 60 days to register from the date of that decision; (2) during these 60 days, the issuer makes up a prospectus, a fill-in-the-blank sample of which is appended to this Decree (App. 1); (3) the state registers the issue; (4) forms are created; (5) the issue is promoted and (6) sold. The procedure for the issuer's making good on the certificates is also regulated by this Decree. Issues must be backed by a guarantor, either a bank, insurance company or other company with the permission of the SEC. See also Presidential Decree No. 1182 *infra* II(b)(6)

- (2) *RF Government Decree No. 713 On Confirmation of the Rules for Registration and Crossing Off of RF Citizens on the Registration Book by Place of Staying or Residence in the Borders of the Russian Federation and the List of Official Persons/Entities Responsible for Registration*

This Governmental Decree signed by Prime Minister Chernomyrdin confirms rules for registration of permanent and temporary residences within Russia. These rules replace the *propiska* rules which were declared unconstitutional by the Constitutional Court in various rulings.

A residence registration will be proof of living in a residential unit which will ensure a family member of the owner the right to continue to live in the unit even if it is sold by its legal owner or through foreclosure. Article 292 of the Russian Federation Civil Code provides that *family members* of those who would sell or otherwise alienate their housing maintain their rights to use such housing despite the transaction. This article is of course a significant bar to secured lending on housing.

- (3) *Presidential Decree No. 478 On Measures for Providing for Guaranteed Receipt of the Revenues from Privatization by the Federal Budget, May 11, 1995*

In point 7 of this decree, the President instructs the RF Government to devise a means for issuing paper reflecting Federal Government debt which can be used to purchase land by enterprises.

- (4) *Presidential Decree On Housing Credits, No. 1180, June 10, 1994.*



This decree sets out rules to encourage private sector mortgage lending to individuals and developers. The decree states that banks may grant three types of housing credits to individuals and legal entities: short or long term credit for purchase or improvement of land for housing construction; short term credit for housing renovation or construction; long term credit for housing purchase. The decree contains general provisions on preconditions for issuing credit, describes the type and contents of agreements between lenders and recipients of the credit, lists what types of property may be used as collateral (and requires insurance on the collateral), and includes instructions on action to be taken in the case of borrower default or use of funds for unintended purposes.

(5) *Presidential Decree On Measures to Provide for Completion of Unfinished Apartment Houses, No. 1181, June 10, 1994.*

Apartment buildings left incomplete due to lack of federal funding or supply of material may be sold by the original contracting agency for the project at auction or tender to raise funds for completion of construction or for sale. The law stipulates which federal agencies are responsible for deciding the buildings that will go up for auction or tender. The decree also contains detailed provisions on organizing and carrying out auctions and tenders.

(6) *Presidential Decree On Issue and Circulation of Housing Certificates, No. 1182, June 10, 1994.*

To encourage the use of private investment in housing construction this decree permits registered housing developers to issue housing bonds to the public. The decree contains detailed provisions on drafting and issuing housing bonds and the rights and obligations of bond holders and issuers.

(7) *Presidential Decree No. 2281 On Development and Introduction of Non-Budget Forms of Investing Into the Housing Sector, December 24, 1993*

This decree, prepared by a joint committee of Gosstroï and the Ministries of Finance and the Economy, and issued pursuant to the Fundamental Principles of Federal Housing Policy (see *infra* III(c)(5)), (1) requires the implementation of further regulations governing private mortgage lending; (2) authorizes a new federal agency ("Federal Agency for Mortgage Lending") authorized to regulate the mortgage banking industry and engage in secondary market activities; (3) promotes local and regional housing development corporations ("Foundations for Housing Development"); (4) establishes a down payment assistance program; (5) requires issuance of regulations governing "housing notes" or other types of housing securities now gaining favor in the Russian market; and (6) requires the creation of a unified real estate registration system.

(8) *Russian Federation Law On Pledge, May 29, 1992*

This law formed the basis for secured financing transactions, including pawn, chattel mortgage and real property mortgage. It is now completely eclipsed by the sections on Pledge in the Civil Code Part I, *supra* I(b)(1). In oral and written commentary, Russian experts have said that this law was de facto annulled by enactment of the Civil Code Part I.





III. HOUSING

(a) Passed since last report (September 1995)

- (1) *Russian Federation Law on Amendments to the Law on Fundamental Principles of Federal Housing Policy, December 24, 1992, see infra III(c)(5)*

This law was passed by the Duma on December 8, 1995 and signed into law by President Yeltsin in January 1996. The amendments deal primarily with provisions in Article 15 of the law which stated that rents would be increased to cover full operating costs over a five year period beginning in 1994. The amendments (a) extend the time period to achieve full cost recovery for another five years and (b) selectively reinstate rent controls in state housing units by stipulating that households whose per capital income is less than the established minimum monthly wage (63,250R as of January 1, 1996) will not have a rent greater than one-half minimum wage.

(b) In Development

- (1) *Revised Housing Code*

The revised Housing Code of the Federation will integrate and further refine the principles set out in the Fundamental Principles of Federal Housing Policy, see *infra* III(c)(5). A draft prepared by the Ministry of Justice, with the participation of the Ministry of Construction, was published in October 1994, in the mass media for consideration by the general public.

After receiving many criticisms of the draft from the Subjects of the Russian Federation and branches of Government, the Government nonetheless approved the Code and submitted it to the Legal Department of the Office of the President. This Office decided to take part in the drafting and to have a special committee be appointed by the President's Office for this purpose. This Committee has not been appointed yet.

- (2) *Draft Presidential Decree on Housing Maintenance*

This draft decree establishes a scheduled for a complete transition to competitive bidding for maintenance services in state and municipal housing by the end of the year 2000. For new construction, competitive bidding of maintenance contracts begins immediately. The State Housing Inspection Department of the Ministry of Construction is charged with ensuring compliance with the decree.

(c) Passed/Issued

- (1) *Constitution of the Russian Federation, December 12, 1993*

At a national referendum on December 12, 1993 the Russian population voted to adopt a new Russian Federation Constitution. Article 40 of the new Constitution reaffirms the right to housing and states that the federal and lower levels of government should encourage housing construction and "create the conditions for the exercise of the right to housing." Article 40 also



states that housing should be provided free or at affordable cost to low-income and other citizens specified in the law (generally, veterans, handicapped, elderly, etc.) within established norms.

- (2) *RSFSR Housing Code, confirmed by the RSFSR Supreme Soviet June 24, 1983, with amendments to July 6, 1991; Fundamentals of Housing Legislation of the USSR and the Union Republics, June 24, 1981*

The basic housing legislation of the RSFSR and USSR survives and serves as a main sources of law for issues in the housing sector. This housing legislation will be replaced by the federal Housing Code presently in development and discussed under *supra* III(b)(1).

- (3) *Law of the RSFSR On the Privatization of the Housing Stock in the RSFSR, July 4, 1991, as amended*

The Privatization law sets out the basic principles for privatizing state, municipal and enterprise housing. The law was amended by the "Law of the Russian Federation On Introducing Changes and Amendments into the Law of the RSFSR On Privatization of the Housing Stock in the RSFSR, December 24, 1992.

- (4) *Russian Federation Decision No. 59 On Measures Concerning Sale of Uncompleted Units, February 3, 1992*

This decision provides for auctions of uncompleted social housing projects to enterprises, organizations, cities and foreign investors, supervised by the State Committee on Management of the State Property.

- (5) *Law On Fundamental Principles of Federal Housing Policy, December 24, 1992*

This law sets out the main policy objectives and role of the federal government in the housing sector. It addresses such issues as housing allowances; increasing rents and utility charges; condominium and other common ownership structures; and rights of tenants in public and private housing. It is the framework for development of the new federal Housing Code.

- (6) *Presidential Decree No. 8 On Use of Socio-Cultural and Communal-and-Everyday Service Facilities of Privatized Enterprises, January 10, 1993*

This decree excludes enterprise housing from the assets which may be privatized by an enterprise, and retains such housing as state property. It also assures local governments of funding for maintaining such housing if transferred to the local government.

- (7) *Decree of the Russian Federation Council of Ministers No. 935 On Transition to a New System for Rent and Communal Services Payment and Procedure for Providing Compensation (Subsidies) for Rent and Communal Services Payments, September, 1993 as amended by Council of Ministers Resolution on Additions to the Decree of the Council of Ministers of September 22, 1993, December 23, 1993*



This decree provides for (1) gradual increases in rents and payments for communal services in social housing, and (2) implementation of a housing allowance program. Localities are allowed to determine the pace of reform measures to raise charges for rents and communal services within their jurisdictions.

(8) *RF Government Decree On Approval of the Tentative Regulations on Free Privatization of Housing in the Russian Federation, October 25, 1993*

This law contains provisions and procedures to be followed in privatizing state and municipal housing and the rules for maintaining and repairing privatized housing units. The law states the policy contained in other housing laws that government housing should be transferred to private hands free of charge. Owners in privatized units have the right to own, use, exchange or sell their units. The law states that after privatization unit owners are responsible for the expense of maintaining and repairing their units. They may contract with the state maintenance firm or a private company. Buildings will continue to be maintained by the state management company that previously maintained the building unless the unit owners hire a private firm.

(9) *RF Government Resolution On Approval of the Regulations on the Procedure of Transfer of Incomplete Residential Buildings for Completion of Construction and for Sale, October 23, 1993*

These regulations establish the procedure for transferring from the state to private entities incomplete residential buildings for completion of construction and/or sale. The regulations establish that the transfers will take place through competitions and contain the procedures that must be followed in conducting the competitions.

(10) *RF Government Decree On Approval of the Regulations on Allocation of Allowances (Subsidies) Free of Charge for Construction or Purchase of Housing to Citizens in Need of Improved Housing Conditions, November 3, 1993*

These regulations specify the procedures for allocation of subsidies for construction and purchase of housing to certain categories of citizens in need of improved living conditions (i.e. on the waiting list for new housing). Subsidies for certain categories of citizens are funded through the Russian Federation budget (invalids, veterans, refused and forced migrants, victims of the Chernobyl nuclear disaster, etc.). Other citizens in need of improved living conditions will receive subsidies funded by the local executive bodies from local budgets. The formula used to calculate the subsidy is contained in the regulations.

(11) *Gosstroj Decree No. 18-24 On Approval of Regulations for Holding Tenders Among Housing Maintenance Companies for Maintenance of State and Municipal Housing Stock, April 1, 1994*

This decree establishes the procedures for competitive selection of maintenance companies for construction, reconstruction or maintenance of housing in the state or municipal housing stock.





IV. CONDOMINIUMS

(a) In Development

(1) *Draft Law on Homeowners' Associations (Condominium Law)*

Provisional Regulations on Condominiums (*infra* IV(b)(3)) called for the preparation of a law on condominiums by September 1994. The draft law was eventually prepared by Gosstroj and the State Property Committee. The draft law was passed by the Duma and Federation Council in January, 1996 but has not been signed by President Yeltsin.

(b) Passed/Issued

(1) *Law of Privatization of the Housing Stock in the RSFSR, supra III(c)(3)*

The Privatization Law establishes the basic principle that privatized apartments are to be held in individual ownership and the common areas and facilities of buildings are to be held in joint ownership of the apartment owners.

(2) *Fundamental Principles of Federal Housing Policy, supra III(c)(5)*

The Fundamental Principles of Housing Policy explicitly recognize the condominium form of ownership and permit local governments to enact appropriate regulations governing condominium associations.

(3) *Decree No. 2275 of the Russian Federation President on Approval of the Provisional Regulations on Condominiums, December 23, 1993*

These provisional regulations were issued by Presidential decree pursuant to the authority granted in the Fundamental Principles of Federal Housing Policy (*supra* III(c)(5)). The regulations govern the creation and operation of legal entities called "condominiums" which are created for the purpose of building and managing jointly owned housing projects.

(4) *Russian Federation Civil Code Part I, supra I(b)(1)*

The Civil Code with its explanation of property rights and formation of legal entities builds the foundation for the Condominium Law. Article 291 in particular provides for housing associations to maintain multi-family buildings as non-commercial (i.e., non-profit) entities acting in accordance with a still to be passed law.



V. LAND

(a) In Development

(1) Revised Land Code of the Russian Federation

Several versions of a revised land have been considered and rejected by the Duma in the past several years. The most recent version, prepared in the State Duma by a working group under the leadership of the Agricultural Committee (Agrarian Party), passed on the first reading in July 1995. While the objectives for the revised Code were hoped to reflect the fundamental changes made to land law as expressed in the privatization, housing, commercial laws and the recent Constitutional amendments, in the Explanatory Note of the Draft of the Code which passed on the first reading, the drafters expressed disagreement with the Fundamental Regulations on the State Program for Privatization of State and Municipal Enterprises after July 1, 1994's mandate for sale of land plots to privatized enterprises and owners', including foreign owners'. This mandate according to the drafters ignores the Constitutional requirement that RF subjects jointly manage their land with citizens and local administrations.

Under the draft, there are three elements of a parcel of land's legal status: use designation, permission for use, and form of legal possession. The maximum length for a lease is 50 years. Foreigners would not be able to own land, but only lease; this would include companies with foreign participation. All land granted to legal entities would need to be reregistered (rerecorded) in accordance with this Code by December 31, 1996.

The draft Code has yet to be introduced for a second reading in the Duma. Current predictions are that the process of revising the Land Code will begin anew with the recently elected Duma.

(2) Draft Federal Law on State and Municipal Lands

This Rozkomzem (Committee of the Russian Federation on Land Resources and Land Development) draft law establishes the criteria for categorizing land as federal, subject, or municipal property. The law outlines federal land ownership rights and provides guidelines for inventory, transfer, and disposal of federal land. The law recognizes the property rights of subject and municipal governments, but leaves elaboration of those rights to other legislative acts. This draft law, along with the draft law "On Withdrawal and Redemption of Land Plots for State and Municipal Needs" and draft regulation "On Allocation (Transfer) of Federal Lands for Use" (discussed *infra* V(a)(3)-(4)) represent a much needed legislative attempt to (1) define the land ownership rights of federal, subject and municipal governments; (2) establish rules for redemption or confiscation of land for public needs; (3) establish the terms and conditions of allocating federally owned land for lease or use. Throughout all of the draft documents can be found provisions from the controversial Land Code which failed to pass in earlier legislation, suggesting a new strategy of Rozkomzem to enact some of the Land Code's ideas into law.



(3) *Draft Federal Law On Withdrawal and Redemption of Land Plots for State and Municipal Needs*

This law provides the conditions under which land may be taken for public use (by national, subject, or municipal governments), the legal procedure for withdrawing the land, and the guidelines for compensation to property owners whose land is taken for government use.

(4) *Draft Federal Regulations On Allocation (Transfer) of Federal Land for Use*

This draft law pertains exclusively to land in federal ownership. The law establishes the purposes for which federal land use may be allocated to other public and private entities, and the corresponding property rights to which those entities will be entitled (lease, permanent or temporary use rights and servitudes). The law establishes the "bundle of rights" that land lessees and users may enjoy and contains provisions on how lessee and user rights may be terminated.

(5) *Draft Federal Law On Lands of Towns and Other Settlements*

This draft responds to provisions in the Land Code which state that land relations in the cities of Moscow and St. Petersburg, as well as federally owned land, are not governed by the Land Code, but regulated by "special legislation." It attempts to regulate land by towns, where the land includes all land in the control of towns and settlements, even their agricultural land. This draft was put forward by Russia's Choice State Duma Deputy Tomchkin of St. Petersburg. Given the bleak political future of the party endorsing this draft, it is not likely to be submitted to the Duma.

(6) *Draft Presidential Decree On Protection of Rural Owners of Real Estate*

This draft would govern "real estate," in the Russian legal and market sense, which is all real or immovable property, but land, except for the land described in Point 1 of the Draft. Point 1 would allow agricultural commercial enterprises in reorganization and the employees of such enterprises and their successors who legally acquire buildings, to own the land under their buildings. Point 2 defines an "improved land plot" as one which functions only with the structure built on it. It would allow for privatization beyond buildings to all necessary land for the building's operations, like parking lots, fences, perennial foliage and even workers' recreation areas. Public easements are listed in Point 4. These are areas the public may use without compensating the owner, including paths for pedestrians, animals, and civil engineering objects which existed at the time of the land's acquisition. This draft has been approved in both houses of parliament and was submitted for presidential signature.

(b) Passed/Issued

(1) *State Tax Service of the Russian Federation Instructions No. 29 for Application of the RF Law On Payment for Land, April 17, 1995, amended August 3, 1995*

These instructions are based on the RF Law On Payment for Land, *infra* V(b)(4). In Russia, use of land is never gratuitous, according to these instructions. Individuals and legal



entities pay either an annual tax on land owned, a rent payment for land leased, or a standard price for land purchased, redeemed or collected out of collateral for a bank loan. The goals of such payments are to encourage rational use of land, its preservation and development, especially in less developed areas, an increase in fertility, better allocation of socio-economic benefits from the use of land of different qualities, and the formation of special funds for financing these objectives. To meet these goals, the taxes are not based on the income produced by the land users, but on a stable price per square unit of land determined each year. The recent (August 3, 1995) amendments provide that the managers of housing cooperatives and associations present their payments to the administrative region where the land plot of the housing sits, until the land is given to the members of the cooperative or association.

- (2) *Presidential Decree No. 478 On Measures for Providing for Guaranteed Receipt of the Revenues from Privatization by the Federal Budget, May 11, 1995, also discussed supra II(a)(3) and II(b)(4).*

In point 7 of this decree, to increase the revenues flowing to the federal budget from land privatization, the President sets a new normative rate for calculating price for purchase and sale land plots. The new multiplier is 10 times the square unit land tax rate.

The RF State Property Committee issued RF GKI Letter No. SB-2/6388, July 18, 1995, to confirm the presidential decree and explain to territory property committees and funds that the new rates take effect for all sales after the Presidential Decree took effect (May 17) and that the tax rate to be used is the rate on the date of the application for purchase was received. The Presidential Decree and this RF GKI letter was followed also by Irkutsk Oblast Governor's Decree, August 11, 1995, setting the price of land at three times the normative price, where the normative price is that set by the Presidential decree.

- (3) *Land Code of the RSFSR, April 25, 1991*

This Code sets out the basic rules for land ownership, use and disposition. It has been modified by the recent Constitutional amendments, described above. This Code would be abolished by the new Land Code Draft discussed *supra* V(a)(1)

- (4) *Law of the RSFSR On Payment for Land, October 11, 1991, as amended February 14, 1992 (amending arts. 6, 8 and 12), June 16, 1992, and August 9, 1994*

This law provides formulas for determining the transfer price, annual tax or lease payment on land transferred to private ownership.

- (5) *Decree of the President of the Russian Federation No. 323 On Urgent Measures to Implement Land Reform in the RSFSR, December 27, 1991*

This decree provides for the privatization of collective farms and the reallocation of surplus agricultural land for non-agricultural purposes. It includes a concept of local government land banks.





- (6) *Presidential Decree No. 301 On the Sale of Tracts of Land to Citizens and Legal Entities During Privatization of State and Municipal Enterprises, March 25, 1992*

This decree authorizes for the first time the sale of land to privatizing enterprises and individuals engaged in commercial (entrepreneurial) activities.

- (7) *Presidential Decree No. 631 On Procedures for Sale of Land Plots During Privatization of State and Municipal Enterprises, June 14, 1992*

This decree is a refinement and elaboration of Decree No. 301, *supra* V(b)(6). It deals with the sale of land rights to owners of privatized State and Municipal enterprises and to citizens for business ("entrepreneurial") ventures. It provides, under specified conditions, for auctions, applications, and requests for proposals (investment competitions). While it uses the terms "sale" and "ownership," in implementation it is widely interpreted to require the granting of leases (49 years) and permanent rights of use.

- (8) *Presidential Edict No. 1228 On the Sale of Housing Stock, Plots of Land and Municipal Property for Privatization Checks, October 14, 1992*

This Edict allows privatization vouchers to be used for purchase of (1) housing units from the state stock; (2) municipal enterprises; and (3) land made available for privatized enterprises and other businesses under Presidential Edict No. 631, *supra* V(b)(7).

- (9) *Law of the Russian Federation On the Rights of Citizens To Acquire As Private Property and To Sell Tracts of Land To Conduct Private Subsidiary Farming and Dacha Economies, Horticulture, and Private Housing Construction, December 23, 1992*

This law permits the private sale of land plots which are used for garden plots, dachas, horticulture and private housing construction, provided the use is not changed. The form of land sales contract is to be approved by the State Committee on Land Resources and Land use ("Roskomzem").

- (10) *Presidential Decree No. 480 On Additional Measures for Allotting Tracts of Land to Citizens, April 23, 1993*

This Edict reinforces the earlier decrees requiring local governments to make land available to citizens for private housing construction and garden plots in ownership, lease or life inheritable possession. Local governments are required to (1) inventory land available for distribution, (2) adopt systems for registration of land titles, (3) issue appropriate documents of title, and (4) re-register land rights granted prior to commencement of the land reform program.

- (11) *Council of Ministers Resolution No. 503 On Approval of Procedure for Plots of Land Purchase and Sale, May, 1993*



This decree permits the private sale of land plots between citizens for individual garden plots, dachas and individual housing construction. Sales may be arranged directly between citizens or through auctions with the aid of the local Committee on Land Resources. Prices are to be determined by negotiation or auction. Transfers will be made through a notarized bill of sale in form approved by the State Committee for Land Resources, and must include a survey or plan of the land. All bills of sale are to be registered with the local Land Resources Committee and there will be a transfer tax collected at the time of registration. Implementation of the decree awaits issuance of a Ministry of Finance regulation on collection of the transfer tax.

(12) *Procedure for Estimating Land Tax Rates From Normative Land Cost, 1992*

This procedure governs implementation of local land taxes and ties local taxes to normative land prices and tax rates established in the Russian Federation Law on Payment for Land, *supra* V(b)(4). Taxes are set at average rates depending upon location and use, but averages may be increased by specified coefficients on the basis of certain characteristics (e.g. historical or resort districts). Residential land is taxed at only 3 percent of the rate established for a district or zone.

(13) *Constitution of the Russian Federation, December 12, 1993*

The December Constitution does not introduce any new concepts in the area of land reform, but incorporates the existing state of the law present in other normative acts. Article 9 states that land and other natural resources can be in private, state, municipal, or other forms of ownership, a change from the previous Constitution which stated all natural resources belong to the state. Article 36 states that citizens and their associations are entitled to hold land in private ownership. This seemingly broad provision is circumscribed by provisions in the 1991 Land Code regarding private land ownership which provides that private land ownership is still only the right of citizens to own plots of land for individual housing or dacha construction, gardening and subsidiary farming. At the same time presidential decrees on the privatization of enterprises establish that enterprises may acquire in fee simple ownership the land under their facilities and may purchase adjacent land for construction. Despite this contradiction in federal law, local administrations, most notably St. Petersburg, have developed procedures for privatizing land for commercial use.

(14) *Presidential Decree No. 2429 On Regulation of Lease and Privatization of Leased Property of State and Municipal Enterprises, October 14, 1992.*

Among other things, this decree establishes the State Property Committee as the lessor with respect to real property owned of state enterprises, and the Property Committee of lower levels of government as lessors of real property owned by enterprises of lower level governments.

(15) *Presidential Decree No. 1767 On the Regulation of Land Relations and the Development of Agrarian Reform in Russia, October 27, 1993*

This decree was intended primarily to address the reallocation of agricultural land from the state and collective farms to individual farmers. It accomplishes that goal essentially by providing for the issuance of shares representing land interests to the collective farmers individually and



permitting them to request an in-kind allocation of land or to trade the land shares among themselves. With respect to urban land issues, the new decree appears to clarify and restate some principles that can be found in earlier laws. On its face the decree: defines the concept of "real estate" to include both land and the structures or improvements located on it; authorizes citizens and juridical entities that "own" land to sell or mortgage it freely; establishes a registration system based upon the "Certificate of Title," which is to be issued with respect to each parcel of land and registered with the local komzem (land committee); subjects all disputes concerning land to court proceedings, whereas previously all such disputes were subject to administrative resolution by the local soviet before entry to court was permitted.

- (16) *RF Government Resolution No. 1272 On Approval of Regulations on Holding Competitions and Auctions on Sale of Land Plots and Other Transactions with Land, December 10, 1993 (Repealed)*

Presidential Decree No. 1767, *supra* V(b)(15), calls for the establishment of uniform procedures for holding competitions and auctions of land plots. The procedures were developed by Rozkomzem in December, 1993 but subsequently repealed by Decree No. 2287, *infra* V(b)(17).

- (17) *Presidential Decree No. 2287 On Modifying Land Laws of the Russian Federation to be in Accordance with the Constitution of the Russian Federation, December 24, 1993*

This decree repeals many of the provisions of the 1991 Land Code. It repeals the federal decree on holding competitions and land auctions, *supra* V(b)(16), as well as provisions of other minor land laws. The decree eliminates from the Land Code the role formerly played by the local Soviets of Peoples Deputies. Most significantly, the decree repeals many of the procedures for land allocation without replacement provisions.

- (18) *Fundamental Principles of the State Program for Privatization of State and Municipal Properties, enacted by Presidential Decree No. 1535, July 22, 1994*

Article 4 of these Principles, entitled "Privatization of Immovable Property" provides for the privatization of land plots on which private or privatized enterprises are located. Enterprises may demand privatization of land plots under them (arts 4.9 and 4.10), if they have acquired possession of the land plots in a approved privatization procedure, usually involving some competition (art. 4.5). Local governments may refuse to sell land parcels, if there is a federal law permitting this (art. 4.2); see e.g., Presidential Decree on the Second Stage of Privatization in Moscow, *infra* M-III(a)(9). Sale of undeveloped land designated for commercial use will be done by auction only, art. 4.3.

- (19) *Russian Federation Government Decree No. 1204 on the Procedure for Determining Normative Prices for Land, November 3, 1994*

This Decree, based on the RF Law On Payment for Land, *supra* V(b)(4), changes the method for pricing land. It declares that the normative price of land will be 200 times the tax rate



for a square unit of a particular parcel. RF Subject Administrations may increase the price of a unit by a coefficient, but not increase the total price by more than 25 percent of the normative price. The price of land should not be more than 75 percent higher than “market price” for the particular parcel. This decree led to a 400 percent increase in the standard price of land, which temporarily discouraged land privatization in St. Petersburg despite the October Mayoral Decree allowing enterprises to privatize land on they lease, Valery Rubin, *Vykup zemli [Redemption of Land]*, ROS. GAZ., May 12, 1995.

- (20) *Russian Federation Civil Code Part I, enacted by the Russian Federation Law on Introduction into Force of the Russian Federation Civil Code Part I, November 30, 1994*

Section 2 of this law lays out property rights, including property rights in land. Chapter 17 on land rights will not however go into effect until a land code is passed according to the enabling act, the Russian Federation Law on Introduction into the Force of Law of Part I of the Russian Federation Civil Code.

VI. PLANNING AND LAND USE REGULATION

(a) In Development

- (1) *Draft RF Law On Zoning in the Territory [of the Russian Federation]*

At present there is no official draft of this law. There were two competing drafts, sponsored by Minstroi and GKI. Minstroi withdrew its version and attempted to draft a mutually acceptable version with GKI. Recently, Minstroi, as chief drafter of the law according to the Action Plan of Government on Legislation, received permission to submit a draft after the Urban Planning Code is adopted by the Duma discussed *infra* V(a)(2) The law seeks to establish a concept known as “territorial zoning,” which is similar to the American process of dividing the territory of a locality into separate zones, each of which is subject to certain development parameters which are set out in a local regulation which has the force of law and binds the municipality. There is still a possibility that a alternative draft will be submitted directly to the Duma.

- (2) *Minstroi Draft Urban Planning Code*

This law attempts to be a comprehensive restatement of the role of planning in urban development, and describes the relative planning functions of the local, regional, and federal governments. It is largely based upon the Soviet-era system of centralized urban planning in which the federal bureaucracy holds considerable power over local planning regulations and decisions. The law also attempts to address issues such as the role of the private design and planning industry and the contractual relationships among property owners” and design and building professionals. Minstroi had received a negative reaction to the draft law from GKI (State Property Committee), but has subsequently revised the draft, received GKI’s approval, and submitted the draft to the Duma. Adoption of the draft is expected within six months.



(b) Passed/Issued

- (1) *Government Decree No. 346 On The Land Reform and Land Resources Committee of the Russian Federation, May 26, 1992*

This decree describes the authority of The State Committee on Land Reform and Land Resources ("Roskomzem") and its local branches in the sphere of land allocation and land use regulation.

- (2) *RF Law On The Bases For Urban Development in the Russian Federation, July 14, 1992*

This is a law of fundamental principles. It provides a general structure for urban planning activities of the federal and local governments and addresses the allocation of land by governments for private development enterprises.

VII. LAND AND PROPERTY REGISTRATION/CADASTRES

(a) In Development

- (1) *Draft Law on the State Registration of Rights to Immovables and Real Estate Transactions*

This law passed in the State Duma on the first reading in July 1995. However, it was subsequently rejected on the second reading. This law will codify and further detail the procedure for registration of real property rights and transactions as required by the Russian Federation Civil Code.

- (2) *Draft Law of Mortgage, supra II(a)(2)*

Following the Land Code of the RSFSR, the draft Law of Mortgage requires that mortgages be registered in the Land Cadastres maintained by the local government Committees on Land Resources and Land Management.

(b) Passed/Issued

- (1) *Land Code of the RSFSR, supra V(b)(3)*

The Land Code establishes in the Federal Government the responsibility for creation and maintenance of a nationwide land cadastre, focusing primarily on physical characteristics and economic use.

- (2) *Government Decree No. 346 On The Land Reform and Land Resources Committee of the Russian Federation, May 26, 1992*



This decree outlines the role of Roskomzem in creating the State land cadastre.

- (3) *Russian Federation Government Decree No. 622 Statute On the Management Order of the State Land Cadastre, August 25, 1992*

This governmental decree is essentially an administrative order implementing the cadastral provisions of the Land Code. It includes the requirement to register information on the "juridical status" of land, including rights of ownership and lease and permitted uses. The actual work of creating and maintaining the cadastre is delegated to local government.

- (4) *Decree No. 2130 of the Russian Federation President On State Land Cadastre and Registration of Documents on the Rights to Real Property, December 11, 1993*

This decree calls for the State Property Committee (GKI) and the State Committee on Land Resources and Land Management (Roskomzem) to jointly draft a uniform system for land registration of rights to immovable property to be administered by Roskomzem. Roskomzem has already drafted a "Land Book" which is presently used for registration in many Russian localities. The intention of this decree was superseded by enactment of the Civil Code, Part I which creates a national registry of immovable property.

VIII. FEDERALISM/INTERGOVERNMENTAL RELATIONS

(a) Passed/Issued

- (1) *RF Law on General Principles of Local Self-Government in the Russian Federation, signed on August 28, 1995, to go into effect upon publication.*

President Yeltsin signed into law the RF Law on General Principles of Local Self-Government in the Russian Federation, August 28, 1995, and it went into effect upon publication September 1, 1995. This law will replace much of the former RF Law on Local Self-Government, *infra* VIII(b)(2). In particular arts. 1-46, 77-79 and 87-96 of the latter law are annulled, leaving chapters on Authority of Rural Administrations, Regional Administrations and City Administrations and on Fundamentals of Organizing Management of a City and the Guarantees of the Rights of Local Self-Government still in force.

This law also replaces laws on election of executive heads and legislative representatives to the local governments. In accordance with the RF Constitution, this law will provide the general principles of "local self-government." Where it conflicts with other normative acts, it will prevail, and all levels of government are asked to bring legislation into accord with this law in the three months following its publication.

- (2) *Law of the RSFSR On Local Self-Government in the RSFSR, July 6, 1991, as amended by RF Law No. 3703-1, October 22, 1992 and RF Presidential Decree No. 2265 On Guaranties of Local Self-Government in the Russian Federation, December 22, 1993*



The Law of Local Government is essentially a "home rule" enabling act and code of political rights and administrative procedure applicable to municipalities and Russian Federation Subject governments (e.g., oblast level). This law which originally created parallel local apparati of power (Soviets) and of administration (Administrations) has been significantly amended to provide only for the creation of Administrations which will fulfill the dual functions of the former apparati.



(3) *Law On Krai and Oblast Soviets of Peoples' Deputies and Krai and Oblast Administration; March 5, 1992*

The krais and oblasts are independent governments of general jurisdiction that are not Republics. This law addresses the same issues with respect to these governments as are addressed with respect the Republics' powers in the Federal Agreement, but also addresses rights of political participation and administrative procedure in these jurisdictions.

IX. REALTORS, APPRAISERS, PROPERTY MANAGERS

(a) In Development

(1) *Draft Russian Federation Law on Realtors and Realtor Activity*

The concept of legal regulation of realtor activity was initiated by the Russian Guild of Realtors. To accelerate the process of enacting such a law, GKI decided to draft the law as a Government resolution. The draft is now circulating among several ministries for comment.

X. TAXATION

(a) In development

(1) *Draft Russian Federation Tax Code*

The Ministry of Finance is currently in the process of writing a new Tax Code. The Code is divided into four parts. Part I, which lays the legal basis and describes the general process of taxation, was adopted by the government in December, 1995 and should go to the Duma early this winter. Part I also reduces the number of taxes (from 150 to 30) and creates tax courts. The Ministry plans to submit Parts II, III, and IV, on federal taxes, regional taxes and local taxes to the government by the end of the first quarter of 1996. The Ministry's goal is for the entire new tax code to come into effect by January 1, 1997.

(b) Passed/Issued

(1) *Law on Fundamentals of Russian Federation Taxation System, December 27, 1991 as amended*

This law outlines the general principles underlying the tax system of the Russian Federation. It states that establishing and abolishing taxes and granting exemptions is exclusively within the domain of the federal government, unless express taxation authority is granting to another entity or level of government by law (art. 1). The federal government has the authority to determine how revenue will be allocated to the budgets of various level governments (art. 9). Subjects of the Federation may only grant additional exemptions "within the sums of the taxes entered into their budgets in conformity with RF legislation" (art. 1). Chapter II of the law



enumerates the types of taxes levied in the RF and specifies which taxes are federal, subject or local level and to whose budget the revenues are allocated.

- (2) *Russian Federation Income Tax Law on Natural Persons (Personal Income Tax), December, 1991 as amended.*

This law was originally enacted in December 1991 and has been heavily amended by presidential decree and Duma resolutions since that time. Several provisions of the law are relevant to housing. The law provides that proceeds from the sale of a residential unit are taxed at the same rates as income from salary and wages, subject to a tax deduction equivalent to 5,000 times minimum monthly wage (currently R63,250). The law also allows a deduction from tax on the sales proceeds of a residence up to the amount expended on constructing and acquiring the real estate originally. The owner must be able to document these expenses in order to take the deduction. Of course this second provision is most useful to owners who purchased their property for its market value rather than those who privatized and spent virtually nothing to acquire their units.

- (3) *Russian Federation Tax on Property Transferred by Inheritance or Gift, December 12, 1991 as amended*

This law establishes the legal basis, rates and procedure for taxing property received through gift or inheritance. The law assesses varying tax rates depending upon the value of the property and the relation of the deceased to the party receiving the property through gift or inheritance. The value of property up to 850 times the minimum monthly wage is tax exempt.

- (4) *Law on Tax on Personal Property*

This law and the accompanying Procedure for Assessment and Payment on Taxes on Natural Persons' Property establish the legal basis and procedures for assessing and collecting personal property tax, which is a local tax. Apartments are taxed as personal property, and the property tax for buildings, premises and structures cannot exceed 1 percent of normative book value of the property; this is not an ad valorem tax.

XI. UTILITIES

(a) Passed/Issued

- (1) *RF Federal Law on State Tariff Regulations for Electricity and Heat, April 4, 1995*

This law establishes the Federal Energy Commission (FEC) as an independent federal agency with a presidentially appointed director. Regional Energy Commissions (RECs) are regional agencies established at the discretion of regional authorities; they are not mandatory. RECs are independent from the FEC, but appointment of the head of the REC must be approved by the FEC. The FEC has advisory power to recommend retail utility prices which the REC may or not implement. The FEC sets wholesale electric rates from primary generators to distributors.



Retail prices are regulated by the RECs. Prices for heating and hot water that are produced as a byproduct of electricity generation are regulated by the FEC and REC. Except for electricity, all utilities supplied by municipal utility enterprises are regulated directly by the municipality (see *infra* Decree No. 935 XI(a)(3)).

- (2) *RF Government Decree No. 352 on Measures to Perfect the System of Tariffs for Electricity, April 22, 1994*

This decree eliminates local administrations' ability to set electricity rates, power which they previously possessed. Electricity prices are now set by the FEC and REC.

- (3) *COM Decree No. 935 On the Transition to a New System of Payment for Housing and Communal Services and the Procedure for Issuing Subsidies to Citizens for Rent and Communal Services, September 22, 1993*

This law provides that, except for electricity, all utilities which are supplied by municipal utility enterprises are regulated directly by the municipality.

XII. HISTORIC PRESERVATION

(a) Passed/Issued

- (1) *Presidential Decree No. 2121 On Privatization of Local Historical and Cultural Monuments in the Russian Federation, November 26, 1994*

This decree grants subject level governments the authority to devise procedures for privatizing structures of historical and cultural significance. Privatization will only be allowed after a comprehensive national list of historically and cultural significant structures is compiled (see *infra* XI(a)(2)).

- (2) *Presidential Decree No. 176 On Approval of the List of Objects of Historical and Cultural Heritage at the Federal Level, February 20, 1995*

This decree calls upon the Government to compile a list of historically and culturally significant buildings to be protected under relevant historical preservation laws. The list is to include federal structures as well as structures at the subject level. Subject level governments are to approve the buildings within their jurisdiction that are on the list.

MOSCOW, REGIONAL AND CITY LAWS

The following is an outline of the basic laws of Moscow and several other Russian cities and regions, existing and in development, which are relevant to the housing and urban development issues addressed in the Urban Institute's technical assistance mission to Russia and the City of Moscow.





MOSCOW

M-I. HOUSING AND HOUSING MAINTENANCE

(a) In Development

- (1) *Draft Mayoral Act on a System of Administrative and Judicial Litigation of Housing Question in Moscow*

This draft provides for special administrative hearings, quasi-judicial or arbitral bodies or courts of general civil jurisdiction to resolve housing disputes or cases. These are questions of violation of Moscow normative acts on use, maintenance, technical servicing and repair of housing, as well as residential utility servicing.

(b) Passed/Issued

- (1) *Moscow Government Decree No. 211 On the Program for Sale of Housing in 1995, March 14, 1995*

In this Decree, the Moscow Government commits to building not less than 3.1 million square meters of housing in 1995. The Decree includes appendices compiling data on housing construction in Moscow for the past year, listing organizations that will receive housing on a priority basis and setting out procedures for sale of municipal housing in Moscow.

- (2) *Order of the Moscow Mayor No. 186-RM On Organizing the Work of Making "Passports" for the Moscow Housing Fund, April 13, 1995*

In the interest of providing for the maintenance and proper use of the Moscow housing fund, the improvement of the monitoring of its condition, and providing owners', tenants and renters of housing units with necessary certification of the consumer and legal characteristics of their apartments, the Mayor asked the Government of Moscow to create a draft law on a Unified Complex Program for Making Passports for the Housing Fund of Moscow. In this draft law will be listed the stages of making passports, starting in 1996, for the existing, reconstructed and newly issued housing stock. To accomplish the goals of this decree, the Mayor created a Coordinating Council led by the Department of Municipal Housing and consisting of heads of relevant Moscow departments. The make up of the Council and its work are described in two Appendices attached to the decree.

- (3) *Moscow Government Resolution No. 464 On Improving Control Over the Preservation and Maintenance and Use of the Housing Stock, May 23, 1995*

This resolution revamps the regulation of the Municipal Housing Inspectorate of Moscow, rechristening it "Moszhilinspektsia" (the Moscow Housing Inspectorate).



- (4) *Administration of the City of Vladimir Order No. 805-R on Conducting Competitive Bids for Housing Repair and Maintenance Enterprises for Preservation and Repair of the Housing Stock for the City of Vladimir, June 21, 1995*

This Order calls for the conducting of competitive bids for selection of enterprises of various forms of ownership (e.g., private, semi-private, public) for maintenance of the municipal housing stock. To this end, it establishes a commission to run the bidding. Attached to the Order is a schedule for conducting the competitions and for signing the housing maintenance contracts.

The Order sets out criteria for evaluating participants in the competitions. It also establishes a form for the housing maintenance contracts to be signed by the Municipal Housing Maintenance Committee with the winners of the tenders.

- (5) *Moscow Decree No. 312-RM On Improving the Organization of Management and Maintenance of the Housing Stock, June 30, 1995, Management Aspects discussed, infra R-VI(a)(2)*

This decree establishes a mandatory schedule for increasing competitive selection of housing maintenance contract in each of Moscow's ten Prefects. By December 1995, 10 percent should be by competitive bid, by the following December, 20 percent, by the next, 60 percent and finally by December 1998, 100 percent. Moscow is thus the first city to commit to a shift to competitive selection of maintenance firms. The Decree assigns the city Department of Engineering Services and the Urban Institute the responsibility for preparing documentation and training programs to meet the goals of the Decree.

M-II. CONDOMINIUMS

(a) In Development

- (1) *Draft Moscow Regulation On Creation and Activity of Unions of Citizens for Renovation and Construction of Residential Buildings in the City of Moscow*

This act would regulate voluntary unions of citizens to renovate or develop residential housing. The unions would be nonprofit entities which would not use local government money, but would raise financing from their own savings' and bank loans, etc. Unions would register with the local administration or municipality after holding a general meeting where a charter was approved. Together with the local government, the Union would select a residential building for renovation or files an application for a land plot for housing construction with the local executive government board. The Union would receive land on a noncompetitive basis if their application was approved.

To be a member of a union, one would have to be at least 18, permanently residing in Moscow, a Russian citizen and either on a waiting list for improved housing or live in housing which is subject to repair in accordance with a Moscow Government Resolution.



(b) Passed/Issued

- (1) *Moscow Government Decree No. 157 on Amendments to Moscow Government Decree No. 813 On the Procedure for Managing Residential Housing Held in Collective Ownership and Transferal of Housing to the Management of Associations of Unit Owners', August 24, 1993, infra M-II(b)(5), February 21, 1995*

The February 1995 amendments decree the formula for calculating the subsidy due to a housing association for maintenance and repair of buildings from the moneys formerly received by the owners' of the building [either federal or local budget money or both]. The amount is all the expenses for maintenance and repair minus revenues from *naim* rents received, lease rents received, payments for technical services, and money received from the Moscow Property Committee (Moskomimushchestvo) for lease of any commercial property as well as other income. Nonetheless, the total subsidy per square meter must never be higher than for an analogous building under municipal or state management.

- (2) *Moscow Government Decree No. 398 on Amendments to Moscow Government Decree No. 813, August 24, 1993, infra M-II(b)(5), May 3, 1995*

The May 1995 amendments permit management of the housing units of condominiums to occur without a license for management of housing, but requires that before a new "head" of a housing association takes over, he or she must pass a course on housing management.

- (3) *Moscow Regulation On Procedure of Acceptance and Maintenance of Houses Sold in a Duly Authorized Way at an Auction Sale, November 20, 1992*

This regulation deals with newly constructed municipal housing which is to be privatized or sold by public auction. The regulation requires that housing associations be established for such buildings and that management eventually be turned over to such associations.

- (4) *Moscow Government Decree No. 300 No. 300 On Basic Principles for Formation and Activities of Communities of Residential Unit Owners' in Moscow, April 6, 1993*

These regulations govern the creation and operation of common ownership housing communities in privatized buildings. Membership in a registered housing association, under this Decree, is voluntary.

- (5) *Moscow Government Decree No. 813 On the Procedure for Managing Residential Housing Held in Collective Ownership and Transferal of Housing to the Management of Associations of Unit Owners', August 24, 1993, amended by Moscow Government Decrees No. 157, February 21, 1995, supra M-II(b)(1) and No. 398, May 3, 1995, supra M-II(b)(2)*

This Decree confirms the "Regulations on the Procedure for Transfer of Residential Housing to the Management of Housing Associations and the Cooperation with Municipal Agencies on Questions of Maintenance and Repair of the Housing Stock." These Regulations



were passed in the interest of independent choice of maintenance organizations and more effectively resolving issues of preservation of housing.

The Moscow Government in this Decree recommends that housing cooperatives where the members have paid off their shares and recorded their ownership of apartments reregister as housing associations. To complete the legal basis for transferring of buildings to condominium management are the Instructions for Management of Associations of Unit Owners' from November 2, 1993. These instructions detail the procedure further.

Under the Regulations, the conditions under which full management of privatized buildings will be turned over to unit owners' by the City include at least 51 percent privatization in the building and creation of a legal housing association.

- (6) *Moscow Government Decree No. 660 On Conducting an Experiment with Participation of Associations of Unit Owners' in Residential Housing Regarding Use Commercial Areas, August 9, 1994*

This Decree describes housing associations' property rights in the commercial premises located in their buildings. The joint owners' of these premises are the City of Moscow and the Moscow Property Committee, pt. 2.2. The relevant housing association however has a "right to participate" in management and use of these premises, if they have taken responsibility for management of their building(s), under Moscow Decree No. 813, *supra* M-III(b)(5), pt. 2.2. The housing association's right to participate extends to choosing the commercial lessee and signing a lease contract with him as one of the lessor parties, pt. 3.1. The other landlord shall be the Moscow Property Committee, pt. 3.4.

M-III. LAND

(a) Passed/Issued

- (1) *Order of the Moscow Mayor No. 254-RM On Additions and Explanations for the Mayoral Order No. 471-RM (On Payment for the Right to Execute a Contract for Land Lease in Moscow) of September 26, 1994, passed May 24, 1995*

This eight point Order is all that remains of a large planned draft on formation of a secondary mortgage market for land leases in Moscow. It states that while for a primary execution of a lease for a land plot, the price for execution was determined by public auction, under Decree No. 471-RM, the price for repurchase of a lease and secondary execution of the lease contract will be determined from a table updated biannually by Moskomzem, pt. 1.

Moskomzem will certify a repurchased lease with a stamp, pt. 2. Moskomzem registers contracts or other market transactions, as required by the RF Civil Code, only in regard to land lease rights obtained at public auctions or after repurchase at market price in a civil transaction with the Government of Moscow, stamped as in point 2, pt. 3. Land lease repurchase transactions are only valid, if there has been state recording of the transaction in the land book (as in point 3) and reissuance of a new land lease contract to the new land holder, pt. 4.



- (2) *Instruction of Moscow's Vice-Mayor No. 51-RVM Re: The Procedure for Granting and Seizure of Land in the City of Moscow, January 31, 1992 (Provisional Regulations)*

Adopts provisional regulations for the allocation of land in the City, including detailed descriptions of the role of the urban planning and architectural bodies in the land allocation process. The regulation focuses primarily on unsolicited proposals from developers, and not land auctions. This decree was promulgated pursuant to a federal grant of authority to the City that was later found unconstitutional.

- (3) *Order of the Moscow Vice-Mayor No. 110-RVM On the Land Leasehold As the Main Form of Legal Land Relations in the City of Moscow, March 2, 1992*

Establishes land leases as the primary form of commercial land allocation. A form lease is attached to the Order.

- (4) *Order of the Moscow Mayor No. 571-RM On the Bidding Procedure and Conditions of Tenders for Long Lease of Plots of Land in Moscow, December 18, 1992 (Regulations On the Commission for Land Relations of the City of Moscow)*

Enacts detailed regulations governing the auction of land by the Moscow Land Commission, the municipal agency vested with the authority to conduct land auctions and RFP's.

- (5) *Moscow Mayor's Directive No. 168-RM Re: The Procedure of Preparation of Normative Documents Authorizing the Development, Design and Building of Projects and the Granting of Land For Such purpose in the City of Moscow, March 19, 1993*

Describes the roles of city and district agencies in reviewing and approving applications for land use approvals and building permits; describes the required documentation for building permit applications.

- (6) *Order of the Moscow Mayor No. 495-RM On the Establishment of Uniform Territorial, Architectural and Town Planning Services Of the Moscow Committee for Architecture in Administrative Districts of the City, March 26, 1993*

Requires the coordination of City and district (prefecture) planning and architectural norms.

- (7) *Moscow Mayor's Directive No. 335-RM Re: The Approval of the Rate of Penalties Imposed By Moskomzem for the Violations of Land Legislation and City Normative Acts, May 21, 1993*

Imposes penalties for violations of the Land Code and City land use regulations.



- (8) *Moscow Mayor's Directive No. 336-RM On Enhancing the Responsibility for the Non-Observance of the Periods of Construction and Rehabilitation in Developing Land in the City of Moscow, May 21, 1993*

Confirms the necessity for project completion deadlines on allocated land and establishes a formula for assessing penalties if deadlines are not met.

- (9) *RF Presidential Decree No. 906 on the Second Stage of Privatization in Moscow, February 6, 1995*

This Russian Federation Presidential Decree gives Moscow the right to conduct special monetary privatization. Moscow has the right to refuse to sell land plots to enterprises, and may grant them instead long term leases of only 49 years.

M-IV. LAND AND PROPERTY REGISTRATION/CADASTRES

(a) Passed/Issued

- (1) *Directive of the Moscow Mayor's Office No. 162-RM Regarding the Main Principles and the Procedure of Registration of Land Users On the Territory of the City of Moscow, March 17, 1993*

Directs city agencies (Moskomzem and Mosarchitectura, primarily) to accelerate a system of land use registration and prohibits issuance of city permits or other documentation for land that has not been registered.

- (2) *Moscow Government Decree, On Introduction in the Territory of Moscow of a Unified System of Government Registration of a Pledge and a Unified Register for Pledge Contracts, with Appendix I, Regulations on Registration of a Pledge on the Territory of Moscow, September 20, 1994*

This Decree describes the procedure for recording liens on chattel and real property in Moscow. It lists the twelve bodies of the Moscow Government responsible for participating in the Unified Registry for all pledges. Each body registers pledges depending on the object of the pledge. Where the agencies' subject matter jurisdiction seems to overlap, those interested in registering their secured transactions still have to record multiple times.

M-V. REALTORS, APPRAISERS, PROPERTY MANAGERS

(a) Passed/Issued

- (1) *Moscow Decree No. 312-RM On Improving the Organization of Management and Maintenance of the Housing Stock, June 30, 1995*

In the area of housing management, this Decree authorizes the "Housing Management Demonstration" a competitive bidding program which will result in the privatization of the



management functions of the Moscow District DEZ (The Department of the General Contractor), one of several Moscow public management companies. The Moscow District DEZ maintains 20-30,000 units. In the pilot competition, this municipal company will be replaced by one selected on a competitive basis. The pilot competition is scheduled for the November 1995.

- (2) *Moscow Government Decree No. 885 On Licensing Realtor Activity (Effecting Housing Transactions) in Moscow, October 4, 1994*

This decree enacts temporary regulations on licensing legal entities which aid in sale, purchase, and lease transactions in real estate.

M-VI. FEDERALISM/INTERGOVERNMENTAL RELATIONS

(a) Passed/Issued

- (1) *Charter of the City of Moscow, June 28, 1995*

In this document, the Moscow City Duma embraces Moscow's simultaneous status as a city (object of local government) and as a subject of the Russian Federation. This status was granted to Moscow in the RF Law on the Status of the Capital of the Russian Federation. One example of the constitutional controversy raised is the declaration of the "dual status" of the executive branch of Moscow's government, the Government led by the Mayor of Moscow, see art. 6. The Government is simultaneously a local self-government body and a state subject government body under the Federal Constitution. These two types of entities are usually separate in most subjects of the Russian Federation. Functions of these two types of bodies listed in the RF Constitution are different and the interests *local* versus *state* which they represent frequently conflict.

REGIONS

R-I. MORTGAGE LAW AND HOUSING FINANCE

(a) Passed since last report (September 1995)

- (1) *Nizhegorodsky Oblast Administration Program on Granting Citizens in Need of Improved Housing Conditions Certificates to Acquire or Build Housing Using Oblast Budget Money*

This Program is similar to the program set up for retired military officers, see *supra* R-I(b)(1), except that it is for all citizens in Nizhegorodsky Oblast in need of new housing and uses Oblast budget money instead of Federal.



(b) Passed/Issued

- (1) *Administration of Nizhegorodsky Oblast Decree No. 92 On Organization of the Work on Granting Certificates for Acquisition and Construction of Housing to Reserve or Released Military Personnel in 1995, June 5, 1995*

This decree confirms the program on granting certificates for acquisition and construction of housing to retired military officers. The Program of the same name as the decree is appendix to it. Its goals are to accelerate provision of housing to retired military officers using Federal money, bank loans and the personal savings of participants. The Federal money will be issued in gratuitous subsidies to an account and released upon execution of a contract for acquisition or construction of housing to the seller or construction contractor.

Participants must be from the Nizhegorodsky Oblast (N.O.) and may choose housing or construction in any part of the Oblast. The N.O. Administration Department of Finance is contracting with banks to participate in the program based on a competitive bidding process. Any construction organizations licensed to build may participate and contract for share participation in the constructed buildings under this program.

R-II. HOUSING AND HOUSING MAINTENANCE

(a) Passed/Issued

- (1) *Nizhegorodsky Oblast Decree No. 348-M On Transition to a New System of Payments for Housing and Communal Services, November 16, 1993*

The resolution was passed in accordance with the Federal Law on the Fundamentals of Housing Principles, *supra* III(c)(5), and Decree No. 935, *supra* III(c)(7). According to this Decree, the population will pay the following percentage of their salary for maintenance (rent) and utilities in the five years between 1994 and 1998: 10, 15, 16, 17, 20. In this way, the population will absorb 20 more each year of the total cost of rent and utilities. An allowance program will be set up to provide for citizens where they are registered to live (*propisani*) who are unable to pay rent and utilities according to this plan.

- (2) *Nizhegorodsky Oblast Administration Order No. 528-R on Establishing of a Portion of Newly Constructed or Freed Up Municipal Housing for Sale at Auctions, April 15, 1994*

In accordance with the RF Law on Fundamentals of Housing Principles, *supra* III(c)(5), this Order gives cities and regional administrations in the Oblast the right to set aside a portion of newly issued or freed up municipal housing for sale at auctions. The Order confirms the attached Sample Regulation on Procedure for Sale of Municipal Housing Stock at Auctions in Cities and Regions of Nizhegorodsky Oblast. These Regulations are recommended only and are meant to form the basis for the city and regions actual procedures. By the regulations the highest bidder



receives the apartment being auctioned under the right of ownership. Only unoccupied, unreserved housing which is free of third party claims can be sold at the auctions.

The goals of these auctions are to receive more money for developed housing and to better organize the sale and purchase of housing.

R-III. CONDOMINIUMS

(a) Passed/Issued

- (1) *Nizhegorodsky Oblast Decree No. 185 on Steps for Creation of Housing Associations (Condominiums) in Nizhegorodsky Oblast, November 11, 1994.*

Coming out after the RF President's Temporary Regulations on Condominiums, *supra* IV(b)(3), this decree adopts Regulations on procedure for creation, registration and financing of housing associations (TDVs-*tovarishchestva domovladetseev*). The Nizhegorodsky Decree says nothing on whether membership in a registered TDV is voluntary, as does the Moscow Decree No. 300, *supra* R-III(c)(2). R-III(c)(2). From this, Urban Institute experts have implied that membership is mandatory. Also attached to this decree is a Model Charter for a TDV.

This decree is a good model for other localities for many of its provisions. It calls for the releasing of the technical passport of the condominium building(s) through the Bureau of Technical Inventory (BTI). The buildings are thus "taken off the balance," i.e., taken out of the responsibility, of the local administrations. Subsidies for housing maintenance and utilities, however, are to be given to the housing association in the same amount as to municipal housing from the local budgets.

The decree calls for the land occupied by the buildings and common areas of the condominium be given to the housing association members under a right of common ownership. Ownership of the common space of the buildings will also be transferred to the housing association members in common ownership as part of the Nizhegorodsky Oblast commitment to privatization of housing.

Any leases (commercial or otherwise) for parts of the condominium building(s) must be executed with the housing associations, instead of the local administration. The rent period in the current leases may not be changed, only the new landlord to whom rents are to be paid will be amended.

R-IV. LAND

(a) Passed/Issued

- (1) *City of Tver Resolution of the Head of City Administration No. 160 On the Temporary Regulations for Land Tenders and Auctions, February 21, 1995*



Unlike many regions decrees on land auctions, which only allow auction for lease, Tver's Resolution anticipates that land will be offered for ownership as well. In its details, the regulation is essentially the same model as used in many other Russian localities, which appear to be based loosely on a proposed land auction regulation prepared by Roskomzem several years ago.

The regulations provide for tender and auction procedures as described in the RF Civil Code, arts. 447-49. According to the Resolution, an ad hoc or permanent tender committee is to be created by the city to run the auctions. Any person may bid at an auction if they are legally permitted to obtain the land authorized for the designated purpose. An offering prospectus must be distributed no more than 30 days prior to the opening of bids. Contents required for such a prospectus are detailed in the regulations.

Contracts with the city with the highest bidder must be executed within 10 days of the tender. Failure to execute in this time results in forfeiture of the bidder's pre-auction deposit and the offering of contract to the next highest bidder. Nullification of the proceeding ensues if the next highest bidder declines.

- (2) *Order of the Mayor/Chairman of the St. Petersburg Government No. 1049-R On the Procedure for Putting into Effect the RF Presidential Decree No. 1535 (July 22, 1994) Parts on Sale and Lease of Land Plots, passed October 19, 1994*

This mayoral order makes it possible for enterprises to purchase the land on which their buildings are located in accordance with Article 4 of the July 1994 Presidential Decree, *supra* V(c)(17). The seller is the St. Petersburg Property Fund (the Fund). New transferees of land register their ownership at the St. Petersburg Land Committee (a.k.a., St. Petersburg Committee on Land Resources and Land Development). *Unilever*, a Dutch conglomerate, made the first purchase of land (8,000 sq.m., \$700,000) in the center of the city after buying almost all of the stock of a successful applicant for purchase, perfume company Severnoe Siianie in April 1995. Following this success, applications began flooding into the property committee which manages the Fund. By July 1995, 615 were received and three more companies were approved.

R-V. LAND AND PROPERTY REGISTRATION/CADASTRES

(a) Passed/Issued

- (1) *City of Tver Order of the Head of Administration No. 91 On the Reorganization of the Management Department of the Registration of Legal entities and Registration of Enterprises of Tver City Administration Into a Tver City Registration and Licensing Chamber, February 21, 1995*

Tver's regulation is innovative for its consolidation of registration of commercial licenses (restaurant, vendors, etc.) and corporations with registration of real estate transactions and rights. It consolidates all registration activities, except possibly interests in land, into one municipal entity, "the Tver Licensing and Registration Chamber." The "records" of the Bureau of Technical Inventory (BTI) and the city land committee were also to be transferred to the Licensing and



Registration Chamber by July 1, 1995. The Order states that the new Chamber will replace BTI in the registration of rights to buildings and structures, but Section 1 of the *Temporary Regulations*, *infra* R-V(a)(2), that the land registration procedures of the Land Committee will remain in place



(2) *City of Tver Administration Temporary Regulations On Registration of Real Property Rights and Transactions in the City of Tver, March 16, 1995*

These regulations detail the subsystem of the city's automated information system for registration of rights to real estate and real estate transactions. Attached to the *Temporary Regulations* is a detailed outline of the data to be collected in the registration subsystem and how that data will be organized. The *Temporary Regulations* appear to provide only for an automated system, and not for a paper system which could be automated. The system will apparently be operated and maintained by the new Licensing and Registration Chamber, see *supra* R-V(a)(1).

R-VI. REALTORS, APPRAISERS, PROPERTY MANAGERS

(a) **Passed/Issued**

(1) *Nizhegorodsky Oblast Administration Order No. 39-R on Creation of a Service of the General Contractor in the System of Housing and Communal Services, January 12, 1995*

This law provides for a General Contractor service which will sign contracts with providers of maintenance and utility services to municipal housing. All payments for maintenance and housing are sent by municipal housing residents to this service. This General Contractor was to take the municipal housing stock under a right of administrative operation (a right of use) from the city and regional committees on administration of municipal property. Attached to this Order is a recommended Sample Regulation on General Contractor Services for Housing and Communal Services for the oblast regions and cities to adapt and adopt.